



Report of the Head of Service Learning Systems

Report to the Director of Children & Families

Date: 11th May 2017

Subject: Beecroft Primary School Expansion – Procurement Strategy and Waiver of Contracts Procedure Rule 9.1 and 9.2



Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Kirkstall		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. The purpose of this report is to seek approval from the Director of Childrens & Families to waiver Contract Procedure Rule 9.1 and 9.2 to ensure the delivery of essential accommodation to support the expansion of Beecroft Primary from an intake of 30 pupils to 45 pupils.
2. In December 2016 the Executive Board approved the principal of a project to expand Beecroft Primary from a capacity of 210 pupils to 315 pupils by increasing the admission number from 30 to 45 with effect from September 2017. A funding envelope of £1.2m has been assigned to deliver the necessary development.
3. This proposal forms part of the on-going work to address capacity and sufficiency across all of Children's Services, which includes provision for primary and secondary school places, early years, as well as specialist provision. The Council's Learning Places Programme embeds the 'one council' approach that has achieved shared ownership of proposed solutions.
4. Due to the proposed design solution being a continuation of existing, albeit smaller scale projects the school have managed themselves. It was determined that the most appropriate delivery method for the required accommodation was for the school to self-deliver utilising their previous architectural consultant. Following a series of progress meetings it was evident delays in submitting both the planning application and the tender package had created a risk of non-delivery for the start of the September term. As a result of this slippage in the proposed programme, it has been agreed that the proposed delivery method is no longer tenable given the technical limitations, critical

accommodation requirements for September 2017 and requirement to tender the scheme. In order to meet the critical path for this scheme it is necessary to appoint a contractor immediately without further delay. In their role as delivery partner to the Local Authority the Leeds Local Education Partnership has been approached to bring the scheme back on programme.

5. Considering the time pressures of this scheme, the complex technical nature of the proposal and the need to ensure the critical ground floor accommodation is complete and reinstated, a delivery partner must be mobilised immediately to ensure these elements are available for the start of the September term 2017. It is proposed the Leeds LEP Limited (LLEP), using Interserve as its construction partner, is procured to deliver the scheme on the basis that they have demonstrated a willingness and ability to deliver the scheme within the agreed time and cost parameters given the details available to date.
6. Any delay in the project beyond the critical path will result in greater disruption to teaching and learning in addition to a higher risk that temporary accommodation will be required. The proposal detailed herein is predicated on the need for all internal remodelling works to the ground floor level be complete and ready for occupation for September 2017, this will allow the first floor structure to be installed during the summer break, thus allowing work at first floor level to continue safely up until the original October half term handover deadline. Completion of this structural work is critical to project success; failure to complete within the timeline outlined will result in the increased need for temporary accommodation.

Recommendations

The Director of Childrens & Families is requested to:

1. Approve the waiver of the following Contracts Procedure Rule to enable the delivery of critical accommodation at Beecroft Primary School, thus allowing the engagement of the Councils Strategic Partner (Leeds LEP Limited) to deliver the required works.
 - **CPR 9.1** Where no appropriate internal provider, Exclusive Supplier, existing provider, LCC Approved Framework Agreement or Approved Framework Agreement exists, competition is required for procurements valued over £100k.
 - **CPR 9.2** Where there are sufficient numbers of providers at least four written tenders will be invited
2. To approve the engagement of the LLEP via the existing Strategic Partnering Agreement and generate a programme of works that will be delivered at selected schools that cannot be met by the Internal Service Provider or an existing Framework Agreement in time for the start of the 2017 September term.
3. Note that design and technical services have been procured utilising the City Council's preferred provider, Norfolk Property Services Leeds (NPS), who will be appointed to provide a technical & cost assurance service.

1.0 Purpose of this Report

1.1. The purpose of this report is:

- To seek approval for proposed first floor roof level expansion project at Beecroft Primary School to proceed using the procurement strategy outlined herein. Due to a combination of delays with the original school appointed architect, complexity of the proposed technical solution and need to ensure ground level accommodation is returned to full working order by commencement of the September 2017 term it is proposed that the Leeds Local Education Partnership, (LLEP) with their construction partner, Interserve, be commissioned to deliver the new scheme, subject to the required accommodation being deliverable within the budget forecasted by and critical path programme dates.
- To seek approval to a waiver of Contractor Procedure Rules 9.1 and 9.2.

2.0 Main Points

- 2.1. A report to Executive Board on 27th July 2016 detailed the outcome of consultation on the proposal to expand primary provision at Beecroft Primary School from a capacity of a capacity of 210 pupils to 315 pupils with an increase in the admission number from 30 to 45 with effect from September 2017. Executive Board approved the recommendation to publish a Statutory Notice. The final determination was granted at the 14th December 2016 Executive Board meeting.
- 2.2. Due to the considered long term development programme of Beecroft Primary by the current Headteacher and school management team, it was determined that a 'self-delivery' model be employed in this instance with the school appointing their own architect. The schools architect has been responsible for the management and delivery of previous developments, and would continue with this programme at first floor level to meet the expansion requirements. Previous school led projects have been successful, both in terms of design and project management. The historic projects delivered by the school have created a new ICT suite, library function and additional teaching accommodation above the existing ground floor. The proposal for the 1.5 form entry expansion of Beecroft would employ a similar principal and be considered a continuation of the ongoing programme of developments, albeit on a larger scale.
- 2.3. As a consequence of delays in both the submission of the planning application by the school appointed architect and issue of the tender package, the critical path date of completing all works at ground floor level has been jeopardised. In order to mitigate this non-delivery risk, and provide the school with options, the LLEP and their construction partner were approached to provide a view on deliverability and an alternative method of procuring the work to the required timescale. Following discussion with the school management team and senior officers within City Development, it has been deemed that the most risk adverse solution would be to progress the project via the LLEP.
- 2.4. Considering the time pressures of this scheme, the complex technical nature of the proposal and the need to ensure the critical ground floor accommodation is reinstated and ready for occupation, a delivery partner must be mobilised immediately to ensure these elements are available by September 2017. It is proposed the Leeds LEP Limited (LLEP), using Interserve as its construction partner, is procured to deliver the scheme on the basis that they have demonstrated

a willingness and ability to deliver the scheme within the agreed time and cost parameters.

- 2.5. The required accommodation at Beecroft Primary School cannot be delivered by the Internal Service Provider (LBS) due to the timescales, scope, method of construction and complexity of the project. Whilst the existing YORbuild2 framework is the preferred tender process, the now compressed programme for delivery by September 2017 also means that to procure using the YORbuild2 framework would not meet the proposed programme and thus the risk of non-delivery exceeds acceptable tolerances.
- 2.6. There is an established relationship with the LLEP and they have advised they can mobilise quickly, resource the project and given the details available to-date it is unlikely the cost ceiling will be surpassed. Therefore, a waiver of CPR9.1 and 9.2 is requested so that the LLEP can be commissioned without further competition and to mitigate the risk of not delivering the critical accommodation by September 2017.
- 2.7. If the proposed waiver is not approved, engagement with an appropriate contractor would be via the YORbuild2 Framework or accept the school appointed architect continue with the proposed programme that has already slipped to a point of jeopardising the delivery of the required works. Either delivery option would exceed the critical date to complete the required accommodation for September 2017. The implications would be a shortfall in classroom and associated ancillary provisions. Additionally, orders for critical components with long manufacturer lead-in times would not be achieved within the required programme. In this eventuality temporary accommodation would need to be implemented at an unknown, yet considerable, cost within a confined site. It is envisaged this would result in the approved budget envelope being exceeded.

3.0 Programme

- 3.1. The programme the LEP has submitted after reviewing the information provided by the school appointed architect, demonstrates that their proposal can be delivered within the timescales required providing immediate action is taken and momentum maintained. The key milestones to achieve this programme are detailed below:

Milestone	Date
Appointment of LLEP / Interserve & Design team	w/c 1 st May 2017
Planning Submission	w/c 22 nd May 2017
Final Cost Submission	w/c 22 nd May 2017
Construction Period Start	w/c 5 th June 2017
Module Delivery	w/c 28 th August 2017
Handover of remodelled ground floor accommodation	September 1 st 2017
Construction Period End	w/c 23 rd October 2017

- 3.2. Note; the above programme is high level. Further detail will be provided as the design team interrogate the proposed solution and development work has commenced.

4.0 Corporate Considerations

4.1. Consultation and Engagement

- 4.1.1. Throughout the design process consultation has taken place with senior Children's Services' officers, school representatives, Highways, Planning and Procurement. Specific discussions relating to the engagement of the LLEP to support the delivery of the required accommodation has taken place with key stakeholders including, senior officers within Children's Services.
- 4.1.2. Extensive and ongoing consultation has been undertaken with both Sacred Heart Catholic Primary School and the Diocese of Leeds. This engagement will continue throughout the project lifecycle.

4.2. Equality and Diversity / Cohesion and Integration

- 4.2.1. An EDCI screening document is included with this report at Appendix A.

4.3. Council Policies and Best Council Plan

- 4.3.1. The recommendations are being brought forward to meet the Council's statutory duty to ensure there are sufficient school places for all children living in Leeds. Providing places local to where children live improves accessibility, reduces the journey to school and reduces the risk of non-attendance.
- 4.3.2. This contributes to the 2016/17 Best Council Plan outcomes for everyone in Leeds to 'Do well at all levels of learning and have the skills they need for life'; 'Be safe and feel safe' and 'Enjoy happy, healthy, active lives'. It also supports the vision in the supporting Children and Young People's Plan 2015-19 to build a child-friendly city with a focus on ensuring all children and young people are safe from harm; do well at all levels of learning and have the skills for life; enjoy healthy lifestyles; have fun growing up; are active citizens who feel they have a voice and influence. The programme seeks to deliver a supply of good quality accessible local school places which can contribute to these outcomes.

4.4. Resource and Value for Money

- 4.4.1. The LLEP and Interserve advise that having reviewed the information given to-date they can deliver the required accommodation within the anticipated budget of £1.2m. A cost plan to this effect will be supplied once the design team have been appointed and work commenced on the specifics of the project. Once provided, the cost plan will be reviewed via NPS (Leeds) at key stages to ensure value for money.

4.5. Legal Implications, Access to Information and Call-In

- 4.5.1. The proposal forming the subject of this report constitutes a 'Significant Operational Decision' and as such will not be subject to 'call in'. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.2. Award of a contract directly to the LLEP could leave the Council open to a potential challenge from other providers, to whom this contract could be of interest to,

claiming that it has not been wholly transparent as the opportunity is not being advertised. However, all procurement routes have been carefully considered and due to the now compressed programme for delivery by September 2017, other procurement methods are not viable as the risk of non-delivery is too high, leading to a shortfall in accommodation at Beecroft Primary School.

- 4.5.3. Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 & 9.2, the above comments should be noted by the Director of Children's Services in making the final decision as to whether to award this contract and be satisfied that to do so, represents best value for the Council, against the context of the Council's requirement to meet its statutory duty to ensure a school place for every child within the city.

4.6. Risk Management

- 4.6.1. The waiver of CPR 9.1 & 9.2 would allow LCC Children's Services to commission an appropriate contractor without further competition and reduce the current risk of not delivering the critical accommodation for the start of the 2017 September term. Historic dialogue with PPPU colleagues has identified the potential risks associated with a waiver of this nature as identified above.

The keys risks are:

- i. Risk of a procurement challenge because of awarding the contract directly to the LLEP, as detailed in 4.5.2 above. All procurement routes have been carefully considered. There is no requirement to use YORbuild2 and the value is below the EU works threshold so there is no risk of challenge for not following either of these routes. Additionally, there is a lot of work in the industry at present reducing the likelihood of challenge from contractors.
 - ii. If this scheme is not delivered by September 2017, temporary accommodation will be required which places further significant pressure on revenue budgets and is further exacerbated by limited available space on a very constrained site.
- 4.6.2. The recommendations detailed herein are critical to ensure that the ground floor accommodation is available for commencement of the September 2017 academic year. This element of work delivers essential ground floor remodelling and the installation of supporting steelwork for the first floor expansion. It will ensure all the disruptive work is achieved over the summer leaving the remainder of the construction programme for final fix. Failure to hand back the ground floor accommodation as outlined will result in a shortfall of a maximum of three classrooms, therefore it will be necessary to provide temporary accommodation to mitigate this shortfall in the intervening period. The site at Beecroft is technically challenging and it is the belief of the design team that it cannot support the appropriate volume of temporary accommodation. The appointment of the LLEP will reduce the risk of non-delivery for September and ensure the critical path is maintained.

5.0 Conclusions

- 5.1. A report to Executive Board on 27th July 2016 detailed the outcome of consultation on the proposal to expand primary provision at Beecroft Primary School from a capacity of a capacity of 210 pupils to 315 pupils with an increase in the admission number from 30 to 45 with effect from September 2017. Executive Board approved

the recommendation to publish a Statutory Notice. The final determination was granted at the 14th December 2016 Executive Board meeting. A construction budget of £1.2m was assigned to the project based upon the scheme proposed by the school as a self-delivery project.

- 5.2. Due to the proposed design solution being a continuation of existing albeit smaller scale projects the school have managed themselves, it was determined that the most appropriate delivery method was for the school to self-deliver utilising their previous architectural consultant. As a consequence of delays in both the submission of the planning application and tender package, it has been agreed that this delivery method is no longer tenable given the technical limitations, critical accommodation requirements for September 2017 and requirement to tender the scheme. In order to meet the critical path for this scheme it is necessary to appoint a contractor immediately without further delay. In their role as delivery partner to the Local Authority the Leeds Local Education Partnership has been approached to bring the scheme back on programme.
- 5.3. The required works at Beecroft Primary School cannot be delivered by the Internal Service Provider (LBS) due to the timescales, scope, method of construction and complexity of the project. Whilst the existing YORbuild2 framework is the preferred tender process, the compressed programme for delivery by September 2017 means that to procure the relevant works using the YORbuild2 Framework introduces a very high risk of non-delivery for September 2017.
- 5.4. It is proposed that the Leeds LEP, with Interserve as their construction partner, is procured immediately to deliver the scheme under the remit that they remain within the £1.2m budget and achieve the critical path programme dates.
- 5.5. To do so, a waiver of CPR9.1 and 9.2 is requested so that the LLEP can be commissioned without further competition and reduce the risk of not delivering the appropriate level of accommodation by September 2017.

6.0 Recommendations

- 6.1. The Director of Children & Families is requested to:
 - 6.1.1. Approve the waiver of the following Contracts Procedure Rule to enable the delivery of critical accommodation at Beecroft Primary School, thus allowing the engagement of the Councils Strategic Partner (Leeds LEP Limited) to deliver the required works.
 - **CPR 9.1** Where no appropriate internal provider, Exclusive Supplier, existing provider, LCC Approved Framework Agreement or Approved Framework Agreement exists, competition is required for procurements valued over £100k.
 - **CPR 9.2** Where there are sufficient numbers of providers at least four written tenders will be invited
 - 6.1.2. To approve the engagement of the LLEP via the existing Strategic Partnering Agreement and generate a programme of works that will be delivered at Beecroft Primary School. The required delivery timeline cannot be achieved by the Internal Service Provider, or an existing Framework Agreement, in time for the start of the 2017 September term.

- 6.1.3. Note that design and technical services have been procured utilising the City Council's preferred provider, Norfolk Property Services Leeds (NPS), who will be commissioned to provide a technical assurance service.

7.0 Background Documents

- 7.1 None